

### REMARKS

Claims 20-59 are pending in this application; whereas, claims 1-19 were canceled by a prior amendment filed June 26, 2003. Claims 20-22, 25 34-37, 56, and 57 are independent. Claims 56-59 were rejected under 35 U.S.C. 112, paragraph 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter. In addition, claims 10 and 14 were rejected under 35 U.S.C. 102(b) as being anticipated by Burnside et al '281.

Claims 10 and 14 were canceled in an Amendment dated June 26, 2003. Accordingly, the Applicant respectfully submits that the rejection of claims 10 and 14 under 35 U.S.C. 102 does not require a response because these claims are no longer pending in this application.

With respect to the rejection of claim 56 under 35 U.S.C. 112, paragraph 2 as being indefinite, it is respectfully submitted that this rejection was made in error. Claim 56, like claims 20-55, is identical to allowed claim 1 or claim 12 of U.S. Patent 6,546,935 with further steps added. In addition, the rationale of the rejection seems to apply to the subject matter contained in claims 57-59, and not claim 56. Therefore, Applicant believes that the rejection of claim 56 was an oversight and that no change is necessary and that claim 56 is allowable.

Finally, with respect to the rejection 57-59 under 35 U.S.C. 112, paragraph 2, independent claim 57 has been amended to add sufficient structure for "passing sufficient electrical current" through the tissue. Particularly, claim 57 (and dependent claims 58-59) now requires a conductor on each side of the organ or vessel along the line of contact. With this change, it is respectfully submitted that claim 57 is no longer indefinite under 35 U.S.C. 112, paragraph 2.

Dependent claims 58 and 59, which incorporate claim 57 by reference, have been amended for consistency with the changes in claim 57. As these claims include all the features of claim 57, it is respectfully submitted that claims 58-59 also satisfy the requirement that the claims particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

For all of the above reasons, it is respectfully requested  
that the pending claims, as amended, be reconsidered and allowed.

Respectfully submitted,

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